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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 339.

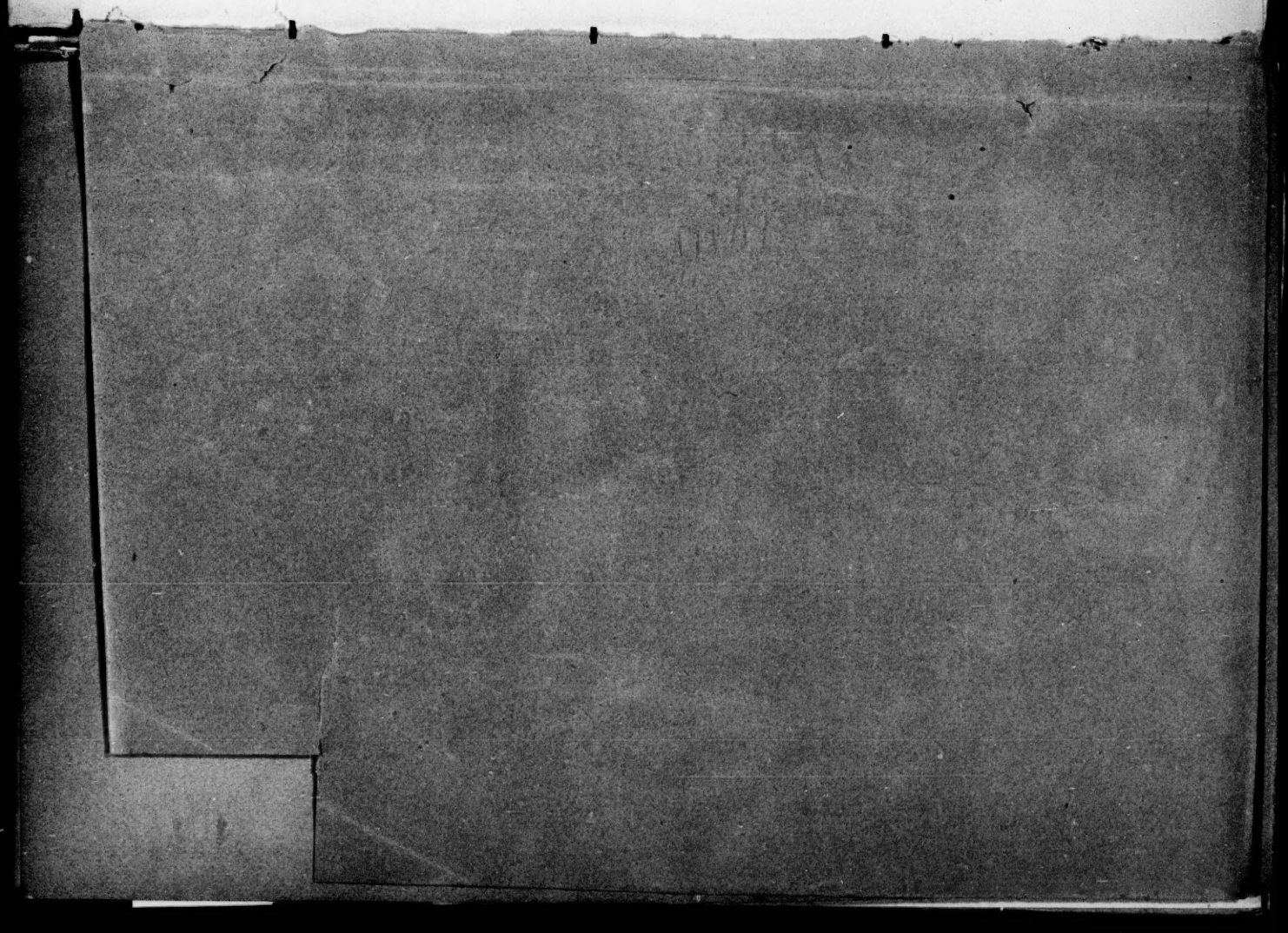
THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

MILES H. MORRIS, JEFFERSON WILSON, ENOCH C. BELL, W. W. LELAND, AND SINA D. PINSON, EXECUTRIX OF RICHARD A. PINSON, DECEASED.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE.

FILED OCTOBER 30, 1877.



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INDEX.

	Original.	Print.
Style of court and cause	1	1
Summons	2	1
Declaration	4	1
Pleas	10	3
Replication	12	3
Order of court	14	4
Order of court	16	4
Bill of exceptions	22	6
Writ of error	62	24
Citation	64	24
Certificate	66	24

1 United States circuit court, western district of Tennessee.

Proceedings had in the circuit court of the United States for the sixth judicial circuit thereof, western district of Tennessee, at a regular term of said court, begun and held for its May term, A. D. 1875, at the federal court rooms in the city of Memphis, on, to wit, the 9th day of August, 1875, and days subsequent thereto, in the following cause.

UNITED STATES
vs.
M. H. MORRIS ET ALS. } 1919. Law docket.

2 The President of the United States of America to the marshal of the district of West Tennessee, greeting:

You are hereby commanded to summons Miles H. Morris, Lina D. Pinson, executrix of the last will and testament of Richard A. Pinson, deceased, Jefferson Wilson, Enoch C. Bell and W. W. Leland, citizens of the state of Tennessee, if to be found within your district, to appear before the judge of the circuit court of the United States, in the sixth circuit for the district of West Tennessee, at Memphis, on the fourth Monday in November next, and then and there to answer the United States of America of a plea of debt to the damage of the said plaintiffs, as they say, the sum of twenty-five thousand dollars; herein fail not, and have you then and there this writ.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 9th day in August, in the year 1875, and 99th year of American Independence.

[L. S.] HORACE E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

3 (Endorsement:) No. 1919. Ret'd & filed Oct. 16th, 1875. H. E. Andrews, clerk; L. H. Pillsbury, D. C. The United States vs. Miles H. Morris and four others. Summons issued 9th day of August, 1875. H. E. Andrews, clerk; L. H. Pillsbury, D. C.

Executed by making known the contents and delivering a copy hereof & of the declaration herein to Lina D. Pinson, as executrix of the last & testament of R. A. Pinson, deceased, on Oct. 13th, 1875.

After diligent search none of the other def'd'ts to be found in my district.

Oct. 16th, 1875.

L. B. EATON, *U. S. M.*

4 UNITED STATES OF AMERICA,
District of West Tennessee:

In the circuit court of the United States, within and for said district in the sixth circuit, May term, A. D. 1875.

The United States of America, by W. W. Murray, their attorney, complain of Miles H. Morris, Jefferson Wilson, Enoch C. Bell, W. W. Leland, and Lina D. Pinson, executrix of the last will and testament of Richard A. Pinson, deceased, who are in court by summons of a plea that they render unto the United States the sum of twenty-five thousand dollars, which to the plaintiffs they owe and from them unjustly detain: For that whereas heretofore, to wit, on the ninth day

of April, A. D. 1858, to wit, in said district of West Tennessee, the said defendant, Miles H. Morris, as principal, and the said defendants Jefferson Wilson, Enoch C. Bell, W. W. Leland and the said Richard A. Pinson, deceased, in his lifetime, as sureties, by their certain bond and writing obligatory, signed by them, sealed with their seals and duly delivered (a duly certified copy of *of* which said bond and writing obligatory is now here to the court shown, the original being on file in the Treasury Department of the United States, in the City of Washington, in the District of Columbia), the date whereof is a certain day therein written, to wit, the day and year aforesaid, became and were held and firmly bound unto the United States of America in the sum of twenty-five thousand dollars, lawful money of the United States, for which payment well and truly to be made the said defendants, Miles H. Morris, Jefferson Wilson, Enoch C. Bell, W. W. Leland and the said Richard A. Pinson, in his lifetime, bound them, themselves and each of them, and their and each of their heirs, executors and administrators, in the the whole & for the whole, jointly and severally, firmly by these presents; which said bond and writing obligatory was and is subject to a certain condition therein and thereunder written, thereby after reciting to the effect following, to wit, that if the above bound Miles H. Morris should faithfully discharge all his duties as purser in the *way* of the United States, then the above obligation to be void and of no effect; otherwise to be and remain in full force and virtue, as by the said bond and writing obligatory, and the condition thereof and the said copy thereof, will more fully & at large appear.

And thereupon the said Miles H. Morris, as such purser, from the time he entered upon and assumed the duties of such office, and from the time of the making of said bond and writing obligatory, did most faithfully discharge all his duties as purser in the Navy of the United States, but that he refused and neglected to the same, and violated and broke the condition of his said bond and writing obligatory in this: that as such purser *purser* on board the United States ship Vandalia, the said Miles H. Morris received from the United States a large amount of clothing of great value, to wit, of the value of seven thousand nine hundred and eighty-two dollars and twenty-seven cents, which it thereby became & was the duty of the said Miles H. Morris, as such purser, to account for with the United States, but to account for the same or any part thereof the said Miles H. Morris, as such purser, hath hitherto wholly failed and refused and still fails and refuses; the said clothing being the property of the United States.

And the said plaintiffs, by their said attorney, further aver that the said Miles H. Morris, as such purser in the Navy of the United States, to wit, as purser on board the United States ship Seminole, and as disbursing officer on the said ship after the making and execution of the said bond and writing obligatory, further violated and broke the condition of his said bond and writing obligatory in this: that as such purser and disbursing officer on board said last named ship, said Miles H. Morris received from the United States a large amount of money, to wit, the sum of fifteen thousand dollars, the same being public money of the United States, which it thereby became and was the duty of the said Miles H. Morris, as such officer as aforesaid, to account for with the United States; but to account for the same, or any part thereof, the said Miles H. Morris, as such, hath hitherto wholly failed and refused, and still fails and refuses, though often requested so to do, in violation of his duty as such officer, and of his said bond and writing obligatory and the condition thereof, and contrary to the form of

the statute in such case made and provided. Whereby and by force of the statute, the said defendants for said offence the sum of twenty-five thousand dollars; and thereby and by force of the said statute in such case made and provided, an action hath accrued to the said plaintiffs to demand and to have in this behalf of and from said defendants said sum so forfeited as aforesaid.

Yet the said defendants (although often requested so to do) have not as yet paid sum of twenty-five thousand dollars above demanded, or any part thereof, to the said plaintiffs. But to do this have wholly refused, and still do refuse, to the damage of the said plaintiffs of twenty-five thousand dollars, and therefore they bring their suit, &c.

W. W. MURRAY,
U. S. Attorney.

9 (Endorsement:) No. 1919. United States circuit court, district of West Tennessee. The United States vs. Miles H. Morris and four others. Declaration in debt. Filed August 3d, 1875. H. E. Andrews, clerk; L. H. Pillsbury, d. cl'k.; W. W. Murray, U. S. dis. attorney.

10 U. S. cir. court, dist. W. Tennessee.

U. STATES
vs.
MILES H. MORRIS ET AL.

S. D. Pinson, one of the defendants, by attorney, come and for plea says that the defendants, before suit brought, paid to the U. S. of America the sum of money in the said declaration above demanded.

And for further plea she says that the said Morris did faithfully account for all the clothing and money that came to his hand as purser in the Navy of the U. States.

And for a further plea she says that no money or clothing of the U. States came to the hands of said Morris as purser in the U. S. Navy, as in said declaration is alleged.

ESTES & ELLIOTT,
Att'ys for Def'd'ts.

11 (Endorsement:) No. 1919. United States vs. M. H. Morris et al. Pleas of Mrs. Pinson. Filed Nov. 26th, 1875. H. E. Andrews, clerk; L. H. Pillsbury, d. c.; Estes & Elliott.

12 Circuit court, Nov. term, 1875.

THE UNITED STATES
vs.
MILES H. MORRIS & OTHERS.

And the said plaintiffs, as to the first and second pleas of the defendant Lina D. Pinson, by her above, pleaded and whereof she has herself upon the country, do*the* the like.

W. W. MURRAY,
U. S. Attorney.

13 (Endorsement:) No. 1919. The United States vs. Miles H. Morris & others. Replication to defendants. S. D. Pinson's pleas. Filed Nov. 29th, 1875. H. E. Andrews, clerk; L. H. Pillsbury, d. c.

14 United States circuit court, western district of Tennessee.

Proceedings had in the circuit court of the United States for the sixth judicial circuit thereof, western district of Tennessee, at a regular term of said court, begun and held for its November term, A. D. 1867, at the federal court rooms in the city of Memphis, on, to wit, the 1st day of December, 1876, and days subsequent thereto, in the following cause.

UNITED STATES
vs.
M. H. MORRIS ET ALS. } 1919. Law docket.

Came the United States attorney, on behalf of the United States, and on his motion it is ordered that the above-entitled case be, and the same is hereby, dismissed as to the defendants Miles H. Morris, Jefferson Wilson, Enoch C. Bell, & W. W. Leland, the said defendants not having been served with process in this suit, and not residing in this district.

Whereupon, on like motion it is ordered that a jury do come,
15 and thereupon came a jury of good and lawful men, to wit: R. V. Vredenburg, W. S. Pickett, Jesse Page, A. Seessel, D. P. Hadden, E. E. Tobey, W. R. Aden, Wm. Humphreys, W. Richards, C. E. McDonnell, J. A. Pierce and C. B. Chamness, who, being duly elected, tried and sworn and truly to try the issues herein, after listening to the testimony and hearing the arguments of counsel, and receiving the charge of the court relative to the law of this case, on their oaths say they find for the defendant.

Whereupon, the United States attorney moves the court for a new trial of this case; the consideration of which motion is continued for a future day.

16, 17 United States circuit court, western district of Tennessee.

Proceedings had in the circuit court of the United States for the sixth judicial circuit thereof, western district of Tennessee, at a regular term of said court, begun and held for its November term, A. D. 1876, at the federal court rooms in the city of Memphis, on, to wit, the 25th day of January, 1877, and days subsequent thereto, in the following cause.

THE UNITED STATES
vs.
M. H. MORRIS ET ALS. } 1919. Law docket.

The motion for a new trial in this case, entered on the 1st day of December last, having been argued and fully considered by the court, it is now ordered that the said motion be overruled, and that judgment be entered in favor of the defendant S. D. Pinsen, executrix of R. A. Pinsen, deceased, on the said verdict. Therefore it is considered that the said defendant S. D. Pinsen, executrix as aforesaid, go hence without day.

18 Circuit court of the United States for the western district of Tennessee, November term, A. D. 1876.

THE UNITED STATES
vs.
MILES H. MORRIS & OTHERS. } No. 1919. L.

Be it remembered that on the trial of this cause, on the 1st day of December, A. D. 1876, the following proceedings were had:

The district attorney, on behalf of the read to the jury a regularly certified copy of the bond of Miles H. Morris as purser in the United States Navy.

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT,
July 27th, 1875.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed is a true copy, the original of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[L. S.]

B. H. BURTON,
Secretary of the Treasury.

19 Know all men by these presents that we, Miles H. Morris, of the county of Pontotoc, in the State of Mississippi, as principal, Richard A. Pinson, Jefferson Wilson, and Enoch C. Bell, of the county of Pontotoc, in the State of Mississippi, and W. W. Leland, of the county of Pontotoc, in the State of Mississippi, as sureties, are held and firmly bound unto the United States of America in the sum of twenty-five thousand dollars, lawful money of the United States, to be paid to the said United States; for which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, an' administrators, in the whole and for the whole, jointly and severally, firmly by these presents, sealed with our seals, and dated this ninth day of April, anno Domini one thousand eight hundred and fifty-eight.

The condition of the above obligation is such that if the above bound Miles H. Morris shall faithfully discharge all his duties as purser in the Navy of the United States, the' the above obligation to be void
20 and of no effect; otherwise to be and remain in full force and virtue.

MILES H. MORRIS.	[SEAL.]
R. A. PINSON.	[SEAL.]
JEFFERSON WILSON.	[SEAL.]
E. C. BELL.	[SEAL.]
W. W. LELAND.	[L. S.]

Signed, sealed, and delivered in the presence of—
R. MITCHELL.

Richard A. Pinson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over ten thousand dollars.

R. A. PINSON.

Sworn and subscribed this the 9th day of April, 1858, before me.

[SEAL.]

R. MITCHELL,
Justice of the Peace.

Jefferson Wilson, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi; and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

JEFFERSON WILSON.

Sworn and subscribed this 9th day of April, 1858, before me.
[SEAL.] R. MITCHELL,
Justice of the Peace.

21 Enoch C. Bell, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

E. C. BELL.

Sworn and subscribed this 9th day of April, 1858, before me.
[SEAL.] R. MITCHELL,
Justice of the Peace.

W. W. Leland, being duly sworn, deposes and says that he resides in the county of Pontotoc, in the State of Mississippi, and that he believes the value of his property, over and above all debts and liabilities incurred by him, is over five thousand dollars.

W. W. LELAND.

Sworn and subscribed this 9th day of April, 1858, before me.
[SEAL.] R. MITCHELL,
Justice of the Peace.

I certify that I have made due and diligent personal inquiry as
22 to the ability of the sureties in this bond, and am satisfied that they are good and sufficient for the sum of twenty-five thousand dollars.

Given under my hand this the 12th day of April, A. D. 1858.
S. J. GHOLSON,
Judge U. S. D. C. for Mississippi.

The district attorney then offered to read to the jury, as evidence in behalf of the United States, the account of Miles H. Morris, as purser in the United States Navy, as certified by the Treasury Department.

23 W. B. M.
C. F. B.

No. 1.

TREASURY DEPARTMENT.

Be it remembered that William B. Moore, esq., who certified the annexed transcript, is now and was at the time of doing so Deputy Fourth Auditor of the Treasury, and that full faith and credit are due to his official attestations.

In testimony whereof I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this 24th day of July, in the year of our Lord 1875.

[L. S.] B. H. BRISTOW,
Secretary of the Treasury.

24 P. T. B.
G. L. C.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
July 23, 1875.

Pursuant to an act of Congress to provide for the prompt settlement of public accounts, approved 3d of March, 1817, I, Wm. B. Moore, Deputy Fourth Auditor of the Treasury Department, do hereby certify that the annexed transcripts are true copies of the originals on file in this office.

WM. B. MOORE,
Deputy Auditor.

25 L. K. B.

Brief to accompany the account of Miles H. Morris, late paymaster, United States Navy.

Bond dated April 9, 1858.

The balance now standing on the books of this office against Miles H. Morris, late paymaster U. S. Navy, and which constitutes the claim of the United States against him, is five thousand nine hundred and twenty-three dollars and sixty cents ($5,923.60), and is fully set forth in detail in the following reconciling statement:

Item marked A, amounting $749.62, is for clothing unaccounted for while he was attached to the Vandalia.

Item B, $2,767.16, cash unaccounted for while disbursing officer of the U. S. S. Seminole.

Item C, $2,586.34, is the amount of interest on the balance due the United States, computed in accordance with the act of Congress approved March 3, 1797, viz: "Interest on balance due the United States is chargeable at the rate of six per cent. per annum from the
26 time when the money was received."

The items of credit, $179.52, have been actually carried to the credit of the paymaster, and as no dispute can arise in regard to them, a detailed explanation, beyond what is on the reconciling statement, is considered unnecessary.

Treasury Department, Fourth Auditor's Office, January 22, 1874.

S. J. W. TABOR,
Auditor.

27 *Abstract of expenditures of Miles H. Morris, Paymaster U. S. S. Vandalia.*

Abstract of expenditures in the a/c of Miles H. Morris, p'r of the Vandalia, from 19 May, 1858, to 6th Jan'y, 1860, including his own pay to 7th March, 1860.

Pay of the Navy:				
Expenditures per roll			$82,034 52	
60 days' pay of self to 7 March, 1860, less $164.38 paid by certificate Feb'y 17, 1860			164 38	
S. stores for ship's use & 10 per cent			34 40	
Do. to Gibson	"		56 06	
Do. to Eldredge	"		451 39	82,740 75
Provisions:				
Cash paid	Voucher	2	$518 00	
		5	613 80	
		16	61 05	
		17	38 47	

		18	24 00		
		21	579 90		
		22	287 70		
		23	217 50		
		24	156 00		
		28	30 00		
		36	119 68		
		38	19 68		
		41	111 84		
		44	467 40		
		45	50 00		
		48	63 00		
		50	101 25		
		53	13 00		
		61	6 27		
		70	1,947 30		
		71	840 00		
		72	965 61		
Expend per roll.....			9,667 12		
		&....	1,056 40		17,954 97

Increase and repairs:

Cash paid.....	Voucher	1		$53 45	
		3		200 45	
		4		15 00	
		8		170 00	
		9		20 00	
		18		27 60	
		22		50 00	
		24		117 00	
Increase & repairs.....	Voucher	33	22 54		
		42	7 75		
		45	10 00		
		49	38 00		
		53	60 00		
		55	21 00		
		60	115 30		
29		64	325 00		
		67	52 00		
		69	20 75		
		72	350 66		1,696 05

Contingent:

Cash paid: Lighterage	Voucher	2	49 50		
Do		3	36 00		
Boat hire		6	54 00		
Freight		7	7 75		
Do.....		10	93 64		
Travel of self		11	224 50		
Pilotage		14	20 00		
Expenses on shore.....		15	2 50		
Freight		16	5 00		
Pilotage		19	24 00		
Expenses on shore.....		20	5 50		

App. of Colton $35.60, & of Potter $38.00		21½	73 60	
Lighterage		24	15 00	
Pilotage		25	24 00	
App. of Lindsay		28½	30 00	
App. of Smith, 2d		"	40 00	
App. of Baker		"	40 00	
Pilotage		29	20 00	
Do.		30	28 00	
Do.		31	20 00	
Charter of sloop, &c		32	33 00	
App. of Smith 2d & Coleman		33½	20 00	
30 Charter of schooner, &c., &c		34	250 01	
App. Coleman		34½	20 00	
Expenses of guides, &c		35	10 00	
App. Smith 2d & Coleman		35½	20 00	
Pilotage		37	20 00	
App. Weekes		38½	16 00	
Travel, &c. of Lt. Ramsey		39	25 50	
Transporting sick men		40	21 00	
Pilotage		46	20 00	
Do.		47	10 00	
Passage of Sinclair, capt's clerk		52	230 00	
Contingent pilotage voucher		53	48 00	
Boat hire		"	5 00	
Transporting invalids		54	104 25	
Travel of Hunt & Lyons		56	130 00	
Do. Do.		57	50 00	
Passage of Sinclair		58	25 00	
Freight		62	15 03	
Stationery		63	9 75	
Passage of Cook		66	25 00	
Hire of Steam-tug		68	100 00	
Boat hire		70	208 00	
Bags, barrels, cartage, &c		72	98 00	
Travel of self		74	40 00	
Postage		76	10 00	2,356 53
31 Surgeons' necessaries:				
Cash paid	Voucher	12	$13 25	
		13	7 55	
		26	2 00	
		27	21 00	
		40	14 00	
		43	31 80	
		51	10 00	
		59	6 00	
		65	49 10	
		73	10 00	164 70
Pay of M. Corps:				
Expenditures per roll				3,990,91
Clothing:				
Slops for ship's use & 10 per cent			$2 60	
Do. turned into store "			2,759 38	2,761 98

ABSTRACT CLOTHING AND SMALL STORES.

Miles H. Morris, purser U. S. S. Vandalia, Dr. (slop & S. store ac. of Miles H. Morris, purser.)

	Clothing pay.:			
	To C. C. Jackson, slops	6,056 93		
	10 p'r cent	605 66		
			6,662 29	
32	To Jesse Sawyer, slops	667 45		
	10 per cent	66 75		
			734 20	
	To E. C. Doran, pr., slops	532 53		
	10 per cent	53 25		
			585 78	
	" C. C. Jackson, S. stores	1,227 23		
	10 per cent	122 72		
				1,349 95
	" Jesse Sawyer, N. S. K. S. stores	284 56		
	10 per cent	28 46		
				313 53
	" W. H. Ball, S. stores	60 75		
	10 per cent	6 07		
				66 82
	E. C. Doran, p'r S. stores	152 89		
	10 per cent	15 29		
				168 18
	" do. S. stores	193 44		
	10 per cent	19 34		
				212 78
	" J. D. Gibson, S. stores	239 40		
	10 per cent	23 94		
				263 34
	" J. W. Brown, S. stores	54 48		
	10 per cent	5 45		
				59 93
			7,982 27	2,434 02

CR.

	Clothing pay:			
	By J. D. Murray, p'r slops	321 80		
	10 per cent	32 18		
			353 98	
	" J. C. Eldredge, p'r slops	2,508 53		
	10 per cent	250 85		
			2,759 38	
33	By slops for ship's use	2 36		
	10 per cent	24		
			2 60	
	By issues per roll, slops (10 per cent. added)		4,116 69	
	" J. D. Murray, p'r S. stores	119 50		
	10 per cent	11 95		
				131 45

By J. D. Gibson, S. stores	50 96		
10 per cent	5 10		
			56 06
" J. C. Eldredge, S. stores	410 35		
10 per cent	41 04		
			451 39
" S. stores for ship's use	31 27		
10 per cent	3 13		
			34 40
" issues per rolls, S. stores (10 per cent. added)			1,710 66
" deficit in slops & S. stores		749 62	50 06
		7,982 27	2,434 02

Abstract of expenditures of Miles H. Morris, paymaster U. S. S. Seminole.

Abstract of credits in the a/c. of Miles H. Morris, p'r of U. S. S. Seminole.

Pay of the Navy:

Vou.			
30.	By paid Lowry, mess-kettles	$22 50	
	" expenses per pay-roll	26,494 53	
34	By allot of Kuhn paid after checking was stopped. It was trans'd from N. S. K. to Phil'a, & chambers paid after stopped	27 00	
	" allot. of J. B. Franklin, A. S., trans'd to Sands, who trans'd him to Etting, Phil'a. Etting checked nothing, but Henderson continued to charge	70 00	
	" allot. of Th. Galloway, 1 C. F., transferred to Sands, an' short checked by him	15 00	
	" allot. of G. D. Dodd, M. M., transferred from C. C. Jackson to be sent home sick. He stayed abo'rd only *only* 14 days, and went to New York. Jackson has charged $6; credit it	6 00	
	" S. stores issued to ship's use	34 72	
	" discount on bill of ex. on the dept	353 25	
	" balance due yourself on roll $540.36		
	" Pay do. from May 1, '61, to June 1, '61, day of your dismissal from service, 32 days at $1,400, 122.74	663 10	
			$27,686 10
	" J. Henderson, N. agent, these allot's twice to his credit, viz, Geo. Peck, P. A. S	90	
35	Dewitt Montgomery, C. H	14	
	Thos. Galloway, C. H	30	
	John Dartwell, 2 C. F	18	
	J. F. McEroy, Boz	8	
	Off Henderson's rec'g statement		$160 00

Pay Marine Corps:

	By expend's per marine rolls	$487 34	$487 34

Provisions of the Navy:

Voucher.			
1.	By paid Fabens, beef, &c	$31 50	
3.	" " " water	6 00	
6.	" Pliney "	15 00	
9.	" Dakoche, beef, &c	297 84	
12.	" Smith, "	19 95	
18.	" Raymond, "	246 05	
22.	" Noah, "	1,505 00	
26.	" Collho, water	59 50	
28.	" " beef, &c	210 10	
32.	" Lowry, "	916 40	
	" expends per crew roll	3,479 24	
	" " marine roll	215 62	
	" discount on bill on Navy Dep't	192 75	
			$7,194 95

36 Construction repairs:

2.	By paid Ember, oil	$92 00	
9.	" Dacoche, oil, &c	404 75	
12.	" Smith, wood	6 50	
15.	" Bowman, cast-iron sector	150 00	
16.	" Borges, oil, &c	136 50	
18.	" Raymond, wood	27 00	
21.	" McLellan, topmast, &c	722 00	
22.	" Noah, repairs & material	2,410 92	
25.	" Ortez, furniture for cabin	51 75	
26.	" Collho, oil, paints, &c	471 27	
27.	" Sloan, repair'g propeller	442 00	
30.	" Lowry, wood	177 04	
			$5,101 73

Fuel for Navy:

3.	By paid Fabens, coal, 200 tons at $10.80	$2,160 00	
7.	" Coster, " 180 " " 26.00	4,680 00	
11.	" Singlehunt, " 108½ " " 15.00	1,627 50	
14.	" Scott, " 100 " " 15.00	1,500 00	
22.	" Noah, " 9 "	117 20	
23.	" Cathcart, labor, &c., shipping coal	222 50	
26.	" Collho, coal	70 00	
30.	" Lowry, coal & shipping	195 00	
			$10,572 20

Contingent Navy:

4.	By paid Bordes, pilotage	$16 00	
5.	" Norton, repairs to watch	5 00	
8.	" McGrath, pilotage	66 00	
37	Voucher.		
12.	By paid Smith, pilotage	$13 50	
13.	" Percia, "	312 00	
17.	" Hitch, "	88 38	
18.	" Raymond, boat hire	20 00	

20. By Norris, repair sextant		7 50	
24. " Coster, pilotage		48 00	
28. " Collho, boat hire		18 00	
30. " Lowry, freight & pilotage		89 00	
31. " Folmar, passages to N. Y.		300 00	
			$983 38

Surgeon's necessaries:

10. By paid Dr. Limar, medicines,		$31 50	
19. " Kuhn, hos. app'es		7 40	
29. " Crandall, medicines		40 75	
			$79 65

Clothing of the Navy:

By expend's per crew-roll		$2,167 81	
" " " marine-roll		31 48	
" " issued for ship's use		3 15	
" " allowed for loss		202 60	
			$2,405 04

Statement of the account of M. H. Morris, purser of U. S. S. Vandalia, from May 19, 1858, to January 6, 1860. Report 2451.

38 Statement of the a/c of Miles H. Morrison, purser of the Vandalia, from 19th of May, 1858, to 6th Jan'y, 1860, and including his own pay to 7th March, 1860.

Pay of the Navy:

DR.		CR.
To requis'n 5706		$5,000 00
" do. 5979		7,000 00
" C. C. Jackson, p'r	Rep. 1831	1,349 95
" requis'n 6207		8,000 00
" Jos. Smith, N. A	1917	18 00
" Geo. Lozall, "	1911	125 00
" Do. "	1998	187 50
" G. N. Sanders. "	2025	12 00
" Jos. Smith, "	2102	45 00
" requis'n, 6672		14,000 00
" Geo. Lozall, N. A	2173	187 50
" A. A. Belknap, p'r	2175	50 00
" requis'n, 6844		5,000 00
" C. C. Jackson, p'r	2249	11,616 46
" A. F. Ammidown, N. A	2263	27 00
" Baring Bros & Co., "	2282	888 88
" G. N. Sanders "	2327	36 00
" requis'n 7091		32,000 00
" Geo. Lozall, N. A	2368	375 00
" Wm. Badger "	2391	18 00
" G. N. Sanders, "	2400	24 00
39 To hos. fund		611 59
" premium on bills on Barings		91 12
" do. do. N. Dept		200 00

To S. stores of N. S. K. & 10 per cent		313 02	
" E. C. Doran, p'r S. stores, "		380 96	
" S. stores of Ball, "		66 82	
" do. of Gibson, "		263 34	
" do. of Brown, "		59 93	
" C. C. Jackson, p'r allots	4,425 50		
Checkage	17 99		
		4,443 49	
" Geo. Lozall, N. A. allotments		62 50	
" A. A. Belknap, p'r, allot's		20 00	
" J. S. Gulick, " "		405 00	
" Wm. E. Badger, " "		78 00	
" G. N. Sanders, " "		18 00	
" J. D. Murray, " "		9 00	
		$92,983 06	
To bal. per contra			$5,863 05

Pay of the Navy:

CR.

By refunding requis'n 6418	$3,000 00	
" Do. 6460	1,132 21	
" expenditures per abstract	82,740 75	
" G. H. White p'r overpayments	2 92	
" J. B. Rittenhouse "	72 60	
Chas. Murray p'r "	40 08	
" J. D. Murray " S. stores & 10 per cent	131 45	
	5,863 05	
Total	$92,983 06	

Provisions:

To requis'n 5706	$3,000 00	
" provisions to officers' messes	1,377 24	
" bal	13,577 73	
	$17,954 97	

Increase and repairs:

To requis'n 5706	$5,000 00	
" do. 5979	3,000 00	
	$8,000 00	
To bal. per contra		$6,303 95

Contingent:

To requis'n 5706	$2,000 00	
" bal	356 53	
		$2,356 53

Surg's necessaries:

To requis'n 5706	$1,190 00	
	$1,190 00	
To bal. per contra		$1,025 30

41	Provisions:		
	Expenditures per abstract	$17,954 97	
		$17,954 97	
	By bal. per contra		$13,577 73
	Increase and repair:		
	By expenditures per abstract	$1,696 05	
	" bal	6,303 95	
		$8,000 00	
	Contingent:		
	By expenditures per abstract	$2,356 53	
		$2,356 53	
	By bal. per contra		$356 53
	Surg's necessaries:		
	By expenditures per abstract	$164 70	
	" bal	1,025 30	
		$1,190 00	
	Pay of M. Corps:		
	To C. C. Jackson p'r rep. 2249	$694 43	
	" do. allotments	87 00	
	" Hos. fund	95 23	
	" bal	3,114 25	
		$3,990 91	
42	Clothing:		
	To C. C. Jackson, pr. rep. 1831	$6,662 29	
	" Slops of N. S. K. & 10 per cent	734 20	
	" E. C. Doran, pr. slops & 10 per cent	585 78	
		$7,982 27	
	To bal. per contra		4,866 31
	Due U. States:		
	Pay of the navy	$5,863 05	
	Increase, &c	6,303 95	
	Surg's necessaries	1,025 30	
	Clothing	4,866 31	
		$18,058 61	
	Net bal. due U. States	$1,010 10	
	Pay of M. Corps:		
	By expenditures per abstract	$3,990 91	
		$3,990 91	
	By bal. per contra		$3,114 25
	Clothing:		
	By expenditures per abstract	$2,761 98	
	" J. D. Murray pr. slops & 10 per cent	353 98	
	" bal	4,866 31	
		$7,982 27	

43 Due Purser:

Provisions	$13,577 73
Contingent	356 53
Pay of M. Corps	3,114 25
	$17,048 51

TREASURY DEPARTMENT,
4 AUDITOR'S,
June 18, 1860.

2D COMP. OFFICE,
June 20, 1860.

M. CAMPBELL.

Statement of the account of Miles H. Morris, paym'r U. S. S. Seminole, from May 1, 1860, *to March* 12, 1861. *Report* 4805.

Miles H. Morris, p'r U. S. Navy, including his leave pay from March 8, '60, day to which his account was settled on Vandalia, to June 30, 1860, then sea duty pay as pr. of the U. S. steamer Seminole to March 12, 1861, when he was detached, then leave pay to June 1, 1861, day he was dismissed from service, in account with the U. S. States.

Pay of the navy:

DR.

To balance	2451	$5,863	05
" Geo. Lozall	2413	125	
" " "	2459	125	
44 To Geo. N. Sanders	2505	1,375	
" Geo. Lozall	2541	1,062	50
" Felix Senac	2551	223	80
" Wm. Badger	2632	64	
" Wm. Flinn	2662	255	
1861, April 3d:			
To requis'n	8139	8,500	
To A. F. Ammidown	2681	170	
" E. T. Dunn	2678	7,000	
May 2d:			
To requis'n	8218	2,500	
To Wm. F. Russell	2692	1,548	
" Wm. Badger	2699	426	
" H. F. Wendell	2733	128	
" Wm. Flinn	2737	380	
" J. O. Bradford	2749	59	75
" A. F. Ammidown	2751	385	
" W. F. Russell	2757	1,057	
" Geo. Lozall	2759	1,612	
To J. O. Bradford	2761	342	13
July 22:			
To requis'n 8447, transfer		2,336	88
To A. F. Ammidown	2778	300	
" W. Badger	2786	876	

To H. F. Wendell	2802	32	
" Wm. Flinn	2792	550	
" W. F. Russell	2803	1,234	
" H. G. S. Key	2811	450	
" W. F. Russell	2868	126	
" E. L. Norton	2857	115	
Carried forward		$39,221	11

45 Pay of the Navy: CR.

By J. D. Gibson	2455	$250	"
1860, August 2d:			
By requis'n 6560, refunding		389	94
By J. O. Bradford	2761	35	48
" J. H. Watmough	2775	160	
" J. V. B. Bleeker	2841½	32	
" Chas. Steedman	2869	18	
" S. P. Carter	3102	425	
" S. P. Brown	2944	510	
" Louis Sands	3441	22,810	71
" W. H. Macomb	3225	340	"
Carried forward		$24,971	13

Pay of the Navy:

DR.

To amount bro't forward		$39,221	11
To H. G. S. Key	2909	360	
" Barings Bros. & Co	2930	6,222	22
" Wm. Badger	3030	212	
" W. B. Ewing	3047	345	
" S. P. Brown	2944	310	
" J. S. Chambers	3101	584	
" J. Henderson	3125	386	
" E. L. Norton	3145	15	
" W. P. Ewing	3157	65	
" W. H. Mcacomb	3225	350	
" J. S. Chambers	3265	314	
" S. P. Brown	3263	395	
46 To J. Henderson	3312	828	
" J. S. Chambers	3332	100	
" Geo. Lozall	3341	560	
" L. D. Slamm	3378	20,000	
" S. P. Brown	3434	269	
" Louis Sands	3441	157	
" J. Henderson	3469	776	
" J. S. Chambers	3516	80	
" "	3656	70	
" "	3766	10	
" C. C. Jackson	3805	6	
" J. Henderson	3880	339	
" "	4030	134	
To hos. fund p'r rolls, $202.93, self 1 mo., $20		203	13
" excess cr. by Bradford rep't. 2761 ov'rp'ts	$9	22	

To S. stores rec'd of N. S. K. $1,648.16, gain, $41.75		1,689 91	
" premium on ex. on Baring Bros.		365 78	
" cash of Walker for sword belt		4 00	
		2,068 91	
		$74,380 37	
To balance per c ntra			$807 83

Contra. Cr.

By amount bro't forward		$24,971 13	
" expend's per abstract		27,686 10	
47 By J. Henderson, allots twice cr. him to be taken off his rec'g statement		160	
" requis'n to effect a transfer		20,755 31	
" balance due U. States		807 83	
		74,380 37	

Provisions of the Navy:

Dr.

1861, May 2d:

To requis'n 8218, cash		$6,000	
" Barings Bros. & Co. bill, 2930		2,666 66	
" requis'n to effect transfer		12,106 02	
		$20,772 68	

Contingent of the Navy:

1860, Oct. 3d:

To requis'n 7720, cash		$2,166	
" Barings Bros. & Co	2930	2,222 22	
" premium on ex. on Barings		130 48	
		$4,518 70	

Construction (increase) & repairs:

To balance	2451	$6,303 95	
		$6,303 95	

Surgeons' necessaries:

To balance	2451	$1,025 30	
		$1,025 30	

18 Cr.

Provisions:

By balance	2451	$13,577 73	
" expend's, per abstract		7,194 95	
		$20,772 68	

Contingent:

By balance	2451	$356 53	
" expend's, per abstract		983 38	
" requis'n to effect transfer		3,178 79	
		$4,518 70	

Construction & repairs:

By expend's, per abstract		$5,101 73
" requis'n to effect transfer		1,202 22
		$6,303 95

Surgeons' necessaries:

By expend's, per abstract		$79 65
" requis'n to effect transfer		945 65
		$1,025 30

Pay of Marine Corps:

DR.

To W. Badger	2632	$10	
" W. F. Russell	2692	22	
" W. Badger	2699	15	
" W. F. Russell	2757	33	
" Geo. Lozall	2759	40	
49 To W. Badger	2786	15	
" W. F. Russell	2803	44	
" "	2868	11	
" J. S. Chambers	3101	15	
" J. Henderson	3125	11	
" J. S. Chambers	3265	15	
" J. Henderson	3312	33	
" J. S. Chambers	3332	15	
" Geo. Lozall	3341	8	
" J. Henderson	3469	44	
" J. S. Chambers	3516	15	
" "	3656	15	
" "	3766	5	
To hos. fund per marine rolls		21 84	
" requis'n to effect transfer		3,403 75	
		$3,791 59	

Fuel for the Navy:

To requis'n to effect transfer		$10,572 20

Pay Marine Corps:

CR.

By balance	2451	$3,114 25	
" Louis Sands	3441	190	
" expend's, per abstract		487 34	
		$3,791 59	

50 Fuel for the Navy:

CR.

By expend's, per abstract		$10,572 20

Clothing the Navy:

DR.

To balance	2451	$4,866 31	
" Felix Senac	2551	124 87	
" slops & 10% rec'd from N. S. K's		5,438 91	
		$10,430 09	

To balance per contra, clothing	$2,529 43
balance produced, pay Navy	807 83
Total balance due U. States	$3,337 26

TREASURY DEPT.,
4TH AUDITOR'S OFFICE,
March 15, 1866.

D. HIGGINS.

2D COMP. OFFICE,
Ap'l 2, 1866.

M. CAMPBELL.

51 Clothing:
1861, July 22:

CR.

By requis'n 6714, transfer	$2,336 88
" Louis Sands	3,158 74
" expend's, per abstract	2,405 04
" balance due U. States	2,529 43
	$10,430 09

Statement of the account of M. H. Morris, late paymaster U. S. Navy, supplementary to report 4805.

Report 161 A.—M. H. Morris, late paymaster U. S. N., to close bond of April 9, 1858.

Pay of the Navy:

To report	✗4805	$807 83
" J. C. Eldredge	5702	14
		$821 83

Clothing:

To report	✗4805	$2,529 43

TREASURY DEPARTMENT,
4TH AUDITOR'S OFFICE,
January 4, 1871.

A. J. BARTLETT.

2D COMPTROLLER'S OFFICE,
Jan'y 6, 1871.

MASON CAMPBELL.

52 Pay of the Navy:

By J. C. Eldredge, N. ag't allot	$14
" M. H. Morris, defaulter	807 83
	$821 83

Clothing:

By M. H. Morris, defaulter	$2,529 43

For items making up the amount charged Morris as defaulter see Reconcilement, on page 463, No. 5.—A. J. B.

Statement of the account of M. H. Morris, late paymaster of U. S. Navy.—Supplementary to report 161 *A.*

Report 1602 A.—Miles H. Morris, late paymaster U. S. N., in account with the United States.—Supplementary to report 161 A.

Pay of the Navy, '70–'1:

Dr.		Cr.
To M. H. Morris, 161 A	$807 83	
" adjustment app	1,779 81	
	$2,587 64	
To balance per contra		$2,587 64

53 Clothing of the Navy:

To M. H. Morris, 161 a	$2,529 43	
	$2,529 43	
To balance per contra		749 62

Miscellaneous receipts:

To interest on balance ($3,337.26) from Feb'y 19, 1861, the last date upon which he received government money up to January 19, 1874, the date of stating this account, being 12 years and 11 months, at 6% per annum	$2,586 34	
	$2,586 34	
To balance per contra		$2,586 34

2D COMP. OFFICE,
Jan'y 20, 1874.

MASON CAMPBELL.

Bond April 9, 1858.

Pay of the Navy, '70–'1:

By balance	$2,587 64	
	$2,587 64	

54 Clothing of the Navy:

By adjustment app	$1,779 81	
" balance	749 62	
	$2,529 43	

Miscellaneous receipts:

By balance	$2,586 34	
	$2,586 34	

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
January 19, 1874.

L. K. BROWN, *Clerk.*

55 No. 1602 A.

L. K. B.

TREASURY DEPARTMENT.
FOURTH AUDITOR'S OFFICE,
January 19, 1874.

I certify that I have examined and adjusted the account of Miles H. Morris, late paymaster U. S. N., supplementary to his account of "Seminole" report 161 A, and find that there is due to the United States from him the sum of five thousand nine hundred and twenty-three dollars and sixty cents ($5,923.60) under the following heads of appropriations, viz:

Pay Navy, '70–'1	$2,587 64
Clothing	749 62
Miscellaneous receipts	2,586 34
	$5,923 60

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

S. J. W. TABOR,
Auditor.

To the SECOND COMPTROLLER OF THE TREASURY.

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance this 20th day of January, 1874.

J. M. BROADHEAD,
Second Comptroller.

56 L K. B.
G. L. C.

Reconciling statement of the account of Miles H. Morris, late paymaster of U. S. Steamer Seminole, including his leave pay from March 8, 1860, day of his settlement as paymaster of the Vandalia, to June 30, 1860, day of commencing duty on the Seminole, then sea pay from July 1, 1860, to March 12, 1861, day of discharge from Seminole, then leave pay to June 1, 1861, day of his dismissal from the service. Supplemental to his account, report 161 A. Bond April 9, 1858.

Balance due United States per office statement			$5,923 60
Thus explained:			
A. To clothing unaccounted for while on the Vandalia		$749 62	
Less following credits:			
By 60 days' pay of self for settling accounts on Vandalia	164 38		
" short footing on acc't current of Vandalia	14 50		
" excess of Hospital Fund charged self on Vandalia	64	179 52	
		$570 10	
57 B. To this sum of money unaccounted for while on the Seminole, being difference amount received and amount paid out		2,767 16	

C. Interest on the balance ($3,337.26) from Feb'y 19, 1861, the last date upon which he received public money, up to June 19, 1874, the date of stating this account, being 12 years and 11 months, at 6% per annum 2,586 34

$5,923 60 $5,923 60

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE.
January 19, 1874.

S. J. W. TABOR,
Auditor.

M. C.
Approved.

J. M. BRODHEAD,
Comptroller.

58 To the reading of said transcript to the jury as evidence in the cause, the defendant, Mrs. Pinson, by her attorney, objects for the following reasons, to wit:

First. Because the certificate is not made by the Auditor, but by a person describing himself as Deputy Fourth Auditor.

Second. Because a deputy auditor, as such, is not authorized to certify transcripts.

Third. Because if authorized the certificate ought to be in the name of his principal.

59 Fourth. Because it does not appear and is not alleged that the Auditor had died or resigned, or was absent or sick at the time the certificate was made.

Fifth. Because the certificate purports to be made by virtue of the act of March 3rd. 1817, which had been repealed more than a year before the date of the certificate.

Sixth. Because the certificate is insufficient in this that it does not state that the document offered is "a transcript from the books and proceedings of the Treasury Department," but purports to be "copies of originals on file in the fourth auditor's office."

And thereupon the court sustained the said objection and excluded said transcript as testimony from the jury, to which decision of the court the district attorney then and there excepted, on the part of the United States.

The court then instructed the jury to return their verdict in favor of the defendant, Mrs. Pinson.

The district attorney moved the court for a new trial, which motion was by the court overruled, to all of which ruling and decisions of the court the district attorney excepted, and tenders this his bill of 60, 61 exception to the court and asks that the same by signed and sealed and made a part of the record in this course which is accordingly done.

[SEAL.] CONNALLY F. TRIGG, *Judge.*

(Endorsed:) No. 1919 L. The United States vs. Miles H. Morris et al. Bill of exceptions. Filed March 14, 1877. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

62 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the judges of the circuit court of the United States for the western district of Tennessee, greeting:

Because in the record and proceedings and also in the rendition of the judgment of a plea which is in the said circuit court before you, between the United States and Miles H. Morris, Jefferson Wilson, Enoch C. Bell, W. W. Leland, and Sina D. Pinson, executrix of the last will and testament of Richard A. Pinson, deceased, a manifest error hath happened to the great damage of the said plaintiff, the United States, as by their complaint appears, we being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein
63 given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same to the Supreme Court of the United States, together with this writ; so that you may have the same at Washington on the 2d Monday of October next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 14th day of March, in the year of our Lord one thousand eight hundred and seventy-seven.

[SEAL.] HORACE E. ANDREWS,
Clerk of the Circuit Court of the United States
for the Western District of Tennessee.

64 UNITED STATES OF AMERICA, *ss:*

To Miles H. Morris, Jefferson Wilson, Enoch C. Bell, W. W. Leland, and Sina D. Pinson, executrix of the last will and testament of Richard A. Pinson, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Western Tennessee, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this fourteenth day of March
65 in the year of our Lord one thousand eight hundred and seventy-seven.

CONNALLY F. TRIGG,
U. S. District Judge.

66 THE UNITED STATES OF AMERICA:

Sixth circuit and district of West Tennessee.

I, Horace E. Andrews, clerk of the circuit court of the United States for said district of West Tennessee, do hereby certify that the papers

hereto attached, are a full, true, perfect, and correct copy of the original records, orders, and proceedings in said court as the same now appear of record and upon the files in my office in the following cause, to wit, the United States vs. M. H. Morris et als., 1919.

In testimony whereof I have hereunto set my name and affixed the seal of said court at office in the city of Memphis, this 14th day of March, A. D. 1877, and of the Independence of the United States the 101st year.

[SEAL.] HORACE E. ANDREWS,
Clerk.

(Endorsement on cover:) No. 339. The United States, plaintiffs in error, vs. Miles H. Morris, Jefferson Wilson, Enoch C. Bell, W. W. Leland, & S. D. Pinson, ex'x of Richard A. Pinson, dec'd. Filed 30th October, 1877.

REC. 339—3

○

OFFICE SUPREME COURT U.S.
FILED
SEP 1 1880
JAMES H. McKENNEY, Clerk.

In the Supreme Court of the United States.

OCTOBER TERM, 1880.

THE UNITED STATES, PLAINTIFFS IN ERROR,
vs.
MILES H. MORRIS ET AL. } No 80.

BRIEF FOR THE PLAINTIFFS IN ERROR.

In the Supreme Court of the United States.

OCTOBER TERM, 1880.

THE UNITED STATES, PLAINTIFFS IN ERROR,
vs.
MILES H. MORRIS ET AL. } No. 80.

BRIEF FOR THE PLAINTIFFS IN ERROR.

This was an action upon the official bond of a purser in the Navy.

The error assigned is the exclusion of a Treasury transcript offered in evidence at the trial on behalf of the United States. (Record, p. 23.) The transcript was excluded because of defects in its certificate. The certificate is given on folios 23 and 24, and is as follows:

TREASURY DEPARTMENT.

Be it remembered that William B. Moore, esq., who certified the annexed transcript, is now, and was at the time of doing so, Deputy Fourth Auditor of the Treasury, and that full faith and credit are due to his official attestations.

In testimony whereof I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this

department, at the city of Washington, this 24th day of July, in the year of our Lord 1875.

B. H. BRISTOW,
Secretary of the Treasury.

P. T. B.
G. L. C.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE,
July 23, 1875.

Pursuant to an act of Congress to provide for the prompt settlement of public accounts, approved 3d of March, 1817, I, Wm. B. Moore, Deputy Fourth Auditor of the Treasury Department, do hereby certify that the annexed transcripts are true copies of the originals on file in this office.

WM. B. MOORE.

L. K. B.

Here follow: (1) a "brief" signed at "Treasury Department, Fourth Auditor's Office, January 22, 1874," by "S. I. W. Tabor, Auditor," noting, among other things, that "the balance now standing on the books of this office against Miles H. Morris," &c.; and (2) an itemized account extending through some 16 pages.

The record shows (p. 23) that the admission of the above transcript as evidence was objected to by defendant, because—

1. The certificate is not made by the Auditor, but by a person describing himself as Deputy Fourth Auditor.

2. A deputy auditor, as such, is not authorized to certify transcripts.

3. If authorized, the certificate ought to be in the name of his principal.

4. It does not appear, and is not alleged that the Auditor had died or resigned, or was absent or sick at the time the certificate was made.

5. The certificate purports to be made by virtue of the act of March 3, 1817, which had been repealed more than a year before the date of the certificate.

6. The certificate is insufficient in this, that it does not state that the document offered is "a transcript from the books and proceedings of the Treasury Department," but purports to be "copies of originals on file in the Fourth Auditor's Office."

This objection was sustained; the attorney for the United States excepted thereto, &c., &c. (folio 59).

The chief point of objection stated above is, that the certifying officer describes himself and is vouched for by the Secretary of the Treasury, as "Deputy" Auditor, and not as Auditor.

It is submitted that the learned judge below erred in confounding officers of the kind that Mr. Moore was, with the ordinary class of deputies, *i. e.*, with such as represent *the persons* of their principals, whose official acts, therefore, are—and consequently, when in writing, must appear upon their face to be—the acts of such principals. In the present case, taking with us the usual presumption *omnia rite acta*, &c., it is seen that Mr. Moore was *Acting* Fourth Auditor—the circumstances by the statutes required in order to justify his so acting having occurred, and he thereby authorized—*not to represent his chief*, but—to be *pro tempore* Fourth Auditor. It is submitted that if, as here, such an one be duly certified to be "*Deputy* Fourth Auditor," or *Fourth* Auditor with any other prefix showing his temporary official character, the existence of every circumstance necessary properly to constitute him such, will be taken *for granted*, upon the same principles, and as fully, as if the case in

question had involved the Fourth Auditor himself; also, that when constituted "Deputy," he acts *proprio vigore*, and not by any virtue derived from the person of the officer whose seat he for the time holds.

What, then, is the statutory character of a "Deputy Fourth Auditor"?

Sections 178 and 179 of the Revised Statutes provide as follows:

SEC. 178. In case of the death, resignation, absence, or sickness of the chief of any bureau, or of any officer thereof whose appointment is not vested in the head of the department, the assistant or deputy of such chief or of such officer, or if there be none, then the chief clerk of such bureau, shall, unless otherwise directed by the President, as provided by section one hundred and seven nine, perform the duties of such chief or of such officer until a successor is appointed or such absence or sickness shall cease.

SEC. 179. In any of the cases mentioned in the two preceding sections, except the death, resignation, absence, or sickness of the Attorney-General, the President may, in his discretion, authorize and direct the head of any other department, or any other officer in either department whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the incumbent shall cease.

Section 235 shows that in the case of the Fourth Auditor the person authorized to act by section 178 (above) is *the chief clerk*.

The conclusion is that Mr. Moore was *Deputy* Auditor, by virtue of one or other of the above provisions, and that, under the circumstances stated above, a court will presume that he was authorized to act as Fourth Auditor

upon the 23d day of July, 1875, and, therefore, to give the certificates required by section 886 for Treasury transcripts of Navy accounts.

The reasoning in Woodworth *v.* Hall (1 Wood. & M., 248 and 389), where a patent had been signed by a chief clerk, &c., as "Acting Commissioner," is in point.

These observations, it is submitted, cover the first *four* grounds of objection to the admission of the transcript, above stated.

5. As to the fifth ground of objection, it is submitted that the reference to the act of 1817 is superfluous, and, besides, amounts to a reference to section 886 of the Revised Statutes, which reproduces the act of 1817.

6. Referring to section 886 of the Revised Statutes, the word "transcripts" in the certificate indicates that by "originals on file" therein is meant *original books*, and to the same effect is the language above quoted from the "brief," with which the transcript begins, as well, also, as the face of the matter certified. That matter is certified to be correct, and it appears upon its face to be an extract from *books*. See Smith *v.* The U. S., 5 Peters, 292, which is exactly in point for the admissibility of the present certificate, and may be the authority that led to the adoption of the form of words in question into general use.

S. F. PHILLIPS,
Solicitor-General.